

**MINUTES OF THE MEETING OF THE
ROWAN COUNTY BOARD OF COMMISSIONERS**

August 5, 2013, 2013 – 3:00 PM

J. NEWTON COHEN, SR. ROOM

J. NEWTON COHEN, SR. ROWAN COUNTY ADMINISTRATION BUILDING
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Present: Jim Sides, Chairman
Craig Pierce, Vice-Chairman
Jon Barber, Member
Mike Caskey, Member
Chad Mitchell, Member

County Manager Gary Page, Clerk to the Board Carolyn Barger, and Finance Director Leslie Heidrick were present. County Attorney Jay Dees was absent.

Chairman Sides convened the meeting at 3:00 p.m.

Chairman Sides announced that the Board of Commissioners had another meeting scheduled for 5:00 p.m. with the Board of Education. Chairman Sides informed the audience the Commissioners must finish the current meeting by 4:30 p.m. to allow staff ample time to set up tables, etc. for the 5:00 p.m. meeting. Chairman Sides stated that Public Comment Period would have to be limited to the ten (10) people currently signed up to address the Board.

Chairman Sides then read the following Disclaimer Statement prepared by the County's attorneys regarding the prayer issue:

"A United States federal court judge has issued the following order enjoining our Rowan County Board of Commissioners from 'knowingly and/or intentionally delivering or allowing to be delivered sectarian prayers at meetings of the Rowan County Board of Commissioners,' at least during the pendency of the current lawsuit. That injunction means that we have been ordered by the court to stop offering any prayers in the name of Jesus, as Americans have freely done for hundreds of years."

"We believe this injunction is unconstitutional and violates hundreds of years of religious liberty and free expression in America. However, as constitutional officers of this County, while we disagree with this injunction, we have chosen to

voluntarily comply with it while the United States Supreme Court hears a similar legislative prayer case. That Supreme Court decision will set the standard for legislative prayer for the entire nation. Our attorneys have filed an *amicus* brief in that case to vigorously defend our prayer practice.”

“In the meantime, for the next few months, until the Supreme Court makes a decision in that case, we will continue our longstanding prayer practice by using words and phrases referenced in the Fourth Circuit legislative prayer case of *Simpson v. Chesterfield County Board of Supervisors*. These are the words from that case that we will continue to use in our prayers.”

“Lord God, our creator,” “giver and sustainer of life,” “the God of Abraham, Isaac and Jacob,” “Heavenly Father,” “Lord our Governor,” “mighty God,” “Lord of Lords, King of Kings, creator of planet Earth and the universe and our own creator.”

“As Commissioners who represent every citizen of Rowan County, we respect the various faiths or non-faith of all our Rowan County citizens. Our County’s prayer practice for many decades has allowed any commissioner to pray as his or her own personal faith requires or to decline to pray at all. No citizen is ever required to join in these prayers. However, if any citizen attending our Board of Commissioners meetings would still be offended by the new language from the court, we invite you to step out of the meeting room for a few minutes during the prayer. You will be summoned to return at the close of the prayer in order to participate in the Pledge of Allegiance, and you are then invited to participate in the remainder of our meeting on the same basis and with the same privileges as any other citizen of Rowan County.”

“Finally, if any Commissioner, taking his turn in the rotation has a sincerely held religious belief regarding the content of his prayer, that Commissioner may request a three-minute recess. The Commissioners may accommodate that religious belief by granting the recess and stepping outside the meeting room for the prayer. Audience members may remain in the meeting room, and following the three-minute recess, the meeting will reconvene with the Pledge of Allegiance.”

Chairman Sides announced that it was Commissioner Barber’s turn in the Board’s rotation to provide the Invocation.

Commissioner Barber said he could not pray a prayer that did not keep in tradition with his Christian values, or provide a prayer that had been diluted. Commissioner Barber said he did not wish to jeopardize the Board members or their families and that he would allow the prayer issue to be properly vetted by the United States Supreme Court. Therefore, Commissioner Barber moved for a three-minute recess in order to allow him and his fellow board members to step

out of the room to pray. Commissioner Caskey seconded and the motion passed unanimously.

Chairman Sides called for a three-minute recess at 3:05 p.m.

Chairman Sides reconvened the meeting at 3:08 p.m.

CONSIDER APPROVAL OF THE MINUTES

Commissioner Barber moved, Commissioner Pierce seconded and the vote to approve the minutes of the June 10, 2013, June 24, 2013 and July 1, 2013 Commission Meetings passed unanimously.

CONSIDER DELETIONS FROM THE AGENDA

There were no deletions from the agenda.

CONSIDER APPROVAL OF THE AGENDA

Commissioner Barber moved, Commissioner Pierce seconded and the vote to approve the agenda passed unanimously.

1. CONSIDER APPROVAL OF CONSENT AGENDA

Commissioner Barber moved approval of the Consent Agenda. The motion was seconded by Commissioner Pierce and passed unanimously.

The Consent Agenda consisted of the following:

- A. Set Public Hearing for August 19, 2013 for ZTA 01-13
- B. Set Quasi-Judicial Hearing for August 19, 2013 for Z 03-13 and CUP 04-13
- C. Purchase Thirteen Vehicles for the Sheriff's Office
- D. Letters of Support – Recertification of Rowan County Airport and the Platinum Site
- E. Budget Amendment Request for Control Stations

2. PUBLIC COMMENT PERIOD

Chairman Sides opened the Public Comment Period to entertain comments from any citizens wishing to address the Board. The following individuals came forward:

- James Ogg spoke in support of the Board providing sectarian prayers in accordance with Biblical principles.
- Nancy Gaines spoke regarding the issue of prayer and expressed her beliefs that prayer was a private issue. Ms. Gaines concluded by offering her own prayer.
- Representative Larry G. Pittman spoke in support of religious expression.
- Representative Carl Ford spoke in support of the Board providing sectarian prayers. Representative Ford provided a prayer in conclusion.

- Will McCubbins addressed the audience as Vice Chair of the Republican Party and encouraged people to get involved to make a difference.
- Jane Smith Steinburg said she was Jewish and did not particularly care for sectarian prayer; however, she respected the fact that prayer was the Commissioners right. Ms. Steinburg asked the Board to provide support for schools and teachers and come to an agreement with the Board of Education for the sake of the children.
- Larry Wright expressed his appreciation for Rowan County's legislative delegation and their representation of Rowan County this year. Mr. Wright also spoke in support of the Board providing sectarian prayers at meetings.
- Linda Sechler spoke in support of the Board providing sectarian prayers.
- John Burke discussed the County's current request before the City of Salisbury regarding the Airport Development Fund request .
- Pamela Perrien spoke in support of the Board providing sectarian prayers at meetings.

With no one else wishing to address the Board, Chairman Sides closed the Public Comment Period.

3. CONSIDER APPROVAL OF FSW 01-13

Senior Planner Shane Stewart reported that on October 31, 1981, Hubert and Stella Gee sold a 10.39 acre tract identified as Tax Parcel 249A-047 located off Gee Drive in Kannapolis to Xerald and Wilma Erwin. Mr. Stewart said a family subdivision was approved on May 1, 2000 establishing a 1.69 acre parcel to be conveyed to the Erwin's son, Brad Erwin. Mr. Stewart said Mr. Erwin had sold the undeveloped lot (249A-146) to an un-related individual, Joshua Owens, who requested a zoning permit for a new residence on July 1, 2013. Planning Staff informed his wife that the lot could only be developed by members of Xerald Erwin's immediate family unless the Commissioners approved a Family Subdivision Waiver.

Mr. Stewart explained that the Subdivision Ordinance was adopted in response to maintenance issues often created by private roads, especially those providing access to a significant number of residences. Requirements specified new divisions could only be established on property containing sufficient public road frontage for both the new and residual lot and where new roads were constructed to meet NCDOT standards. In lieu of these options, the ordinance established a process where a property owner could convey parcels to their immediate family members for the purpose of establishing new residences.

Mr. Stewart said the waiver process was established to give the Commissioners the ability to waive certain requirements of the family subdivision standards in special situations. Mr. Stewart said while the request was not one of the typical exemptions listed in the staff report, it was clear the Erwin family did not attempt

to circumvent the ordinance and did maintain family ownership for an extended period of time.

Chairman Sides asked if anyone in the audience wished to comment on the matter. The following individuals came forward:

- Harold Gee said the land had belonged to his father before it was divided. Mr. Gee discussed the dirt road in front of his house and said he had maintained the road from his driveway to the mailbox since 1982 and he had never been paid for the work. Mr. Gee said there was already a lot of traffic and potholes along the road. Mr. Gee said one (1) family had put three (3) loads of gravel on the road but the rest of the maintenance had been left up to him. Mr. Gee said he was opposed to another house being built along the road.
- Josh Goins said he was the one who wished to build the house along the road. Mr. Goins said the traffic referenced by Mr. Gee was from Mr. Gee's rental properties on the road. Mr. Goins said he had no problems paying his share to maintain the road. Mr. Goins said he had known the Gee family for over twenty (20) years and was no stranger to the family and he repeated that he would give his word to keep up his portion of the road.
- Xerald Erwin explained that he had previously owned the land in question, which adjoins his land. Mr. Erwin said he had no objections to a new home being built along the road as he felt it would be an improvement to the area. Mr. Erwin said he had contributed more than three (3) loads of gravel on the road, as had been mentioned by Mr. Gee. Mr. Erwin said the potholes were on the other end of the road, which adjoined "the other fellow's" land. Mr. Erwin repeated that he had no objection to a new home being built.

Commissioner Pierce said he understood the concerns of Mr. Gee regarding his efforts to maintain road for thirty (30) years. Commissioner Pierce encouraged Mr. Goins to take care of the road that came down to his property in an effort to turn the situation into a good neighborhood.

Commissioner Pierce moved approval of FSW 01-13. The motion was seconded by Commissioner Barber.

Chairman Sides took a moment to explain a section of the Subdivision Ordinance which addressed the requirements for road maintenance.

Upon being put to a vote, the motion to approve FSW 01-13 passed unanimously.

4. CONSIDER REQUEST FOR PE-03-13 FROM ROWAN COUNTY AGRICULTURAL AND INDUSTRIAL FAIR ASSOCIATION

Planner Julian Burton reported that the Rowan County Fair Association (RCFA) would host a 2-day outdoor concert on August 31, 2013 and September 1, 2013 with live music played between the hours of 1:00 p.m. and 11:00 p.m. on both days. The concert's purpose is to raise money for the Jaycees, an organization whose mission is "to empower young active citizens to create positive change in their communities". The organization is associated with the RCFA.

Mr. Burton said the event would be held at the fairgrounds property located at 1560 Julian Road in Salisbury, NC. While the property is located in the extraterritorial jurisdiction of the City of Salisbury (City), the County's Noise Ordinance governs unreasonable amplified sound for all areas of the county outside municipal limits. The Ordinance provides an opportunity to exceed the amplified sound standards in the form of a Permit to Exceed (PE) when the event is open to the public.

Mr. Burton said Planning Staff recommended approval of PE-03-13 based on compliance with the items listed in the staff report.

Commissioner Barber moved approval of PE 03-13. Commissioner Caskey seconded and the motion passed unanimously.

5. CONSIDER APPROVAL OF RETIREMENT INCENTIVE PROGRAM

Commissioner Pierce discussed a proposed Retirement Incentive Program (Program) designed to offer dedicated and valued county employees the opportunity to receive an incentive payment if they meet eligibility requirements and retire on or before March 31, 2014. If, or when, the vacated positions are filled, the Program would allow other county employees the opportunity for advancement and will help address the compression issue.

Program eligibility requirements (that must be met on or before March 31, 2014) were presented as follows:

- All applicants must have thirty (30) years of service as recognized by the Local Government Retirement System.
- All applicants must be fifty-five (55) years of age or older.

Commissioner Pierce said the Program will become effective upon approval by the Board of Commissioners, and terminate on March 31, 2014.

An amount equal to four (4) months salary, not to exceed \$16,000, will be offered as an incentive for retirement. Full retirement benefits through the Local Government Retirement System and Retiree Health Insurance benefits through Rowan County Government until age sixty-five (65) will also be provided. All vacation and compensatory time will be paid as each position warrants.

Commissioner Pierce expressed hope the Board would approve the Program.

Commissioner Barber moved to approve the Retirement Incentive Program. The motion was seconded by Commissioner Caskey and passed unanimously.

6. CONSIDER APPROVAL OF BUDGET AMENDMENTS

Finance Director Leslie Heidrick presented the following budget amendments for the Board's consideration:

- Finance – To budget revenues and expenditures for a locally administered project – State Public Access Agreement between NC DOT, Woodleaf Volunteer Fire Department (VFD) and the County. The project is for the construction of a driveway entrance to the new VFD. NC DOT will reimburse the County for construction costs and the County will reimburse the VFD. Costs exceeding the budgeted amount will be borne by the VFD. \$13,800
- Health Department – Funding for Breastfeeding Peer Counselor Program. The funds will be kept in reserves and used as needed to pay the counselor's salary, benefits and expenses. \$24,856

Commissioner Barber moved approval of the budget amendments as presented. The motion was seconded by Commissioner Mitchell and passed unanimously.

7. CONSIDER APPROVAL OF BOARD APPOINTMENTS **ECONOMIC DEVELOPMENT TASK FORCE**

There are four (4) vacancies for County appointments and applications have been received from the following:

- Teddy Jefferson Morris
- Shawn Andrew Campion
- Tony Allen Ward
- Janet L. Martin
- Starling Johnson (This application was received after the 5 p.m. Agenda deadline)

Chairman Sides stated the applicants would be considered in the order listed and anyone receiving three (3) votes would be placed on the Task Force until the four (4) vacancies were filled.

Teddy Jefferson Morris received four (4) votes.

Shawn Andrew Campion received four (4) votes.

Tony Allen Ward received five (5) votes.

Janet L. Martin received four (4) votes

INDUSTRIAL FACILITIES AND POLLUTION CONTROL FINANCE AUTHORITY

- John Patrick Burke has submitted an application.

The term is for six (6) years beginning August 1, 2013 and expiring July 31, 2019.

John Patrick Burke was appointed 3-2 with Commissioners Sides and Pierce dissenting.

ROWAN COUNTY HOUSING AUTHORITY

There is one (1) vacancy and applications have been received from the following:

- William Kenneth Brown
- Hattie M. Johnson
- Lana M. Lane
- Doug Jones
- Melanie Earle for reappointment
- Jill Eugenia Burch

The term is for five (5) years beginning September 1, 2013 and expiring August 31, 2018.

Commissioner Pierce nominated Melanie Earle for reappointment and the nomination passed unanimously.

ROWAN COUNTY TOURISM DEVELOPMENT AUTHORITY

- Krista K. Osterweil has submitted an application for reappointment, representing Owners of Tourist Accommodations.

The term is for two (2) years beginning September 1, 2013 and expiring August 31, 2015.

Commissioner Pierce nominated Krista Osterweil and the nomination passed unanimously.

ADULT CARE HOME ADVISORY COMMITTEE

- Carol Cody submitted a letter of resignation. Commissioner Mitchell moved to accept the letter of resignation. Commissioner Barber seconded and the motion passed unanimously.

There are eight (8) vacancies with the resignation and the following application has been received:

- Angelena Noto Spillman has submitted an application for this committee in addition to the Nursing Home Advisory Committee.

The term is for one (1) year beginning August 1, 2013 and expiring July 31, 2014.

Commissioner Mitchell nominated Angelena Noto Spillman and the nomination carried unanimously.

NURSING HOME ADVISORY COMMITTEE

- Nadine Potts has submitted a letter of resignation. Commissioner Mitchell moved to accept the letter of resignation. Commissioner Pierce seconded and the motion passed unanimously.

There are three (3) vacancies with the resignation and the following applications have been received:

- Angelena Noto Spillman has submitted an application for this committee in addition to the Adult Care Home Advisory Committee.
- Anthony Quentin Hall (This application was received after the 5 pm Agenda deadline)

The terms are for one (1) year beginning August 1, 2013 and expiring July 31, 2014.

Commissioner Mitchell nominated Angelena Spillman and Anthony Hall. The nominations carried unanimously.

EAST GOLD HILL VFD FIRE COMMISSIONER

There is one (1) vacancy and the following applications have been received:

- Gary William Russell
- Vivian Pennington Hopkins

The term is for two years beginning August 1, 2013 and expiring July 31, 2015.

Commissioner Pierce nominated Vivian Hopkins and the nomination passed unanimously.

LIBERTY VFD FIRE COMMISSIONER

There are two (2) vacancies and the following applications have been received:

- Norman Grey Ribelin
- Bobby Ketchie

The terms are for two (2) years beginning August 1, 2013 and expiring June 30, 2015.

Commissioner Barber nominated Norman Grey Ribelin and Bobby Ketchie. The nominations passed unanimously.

CITY OF KANNAPOLIS ETJ PLANNING AND ZONING COMMISSION

- Conrad Sloop has submitted an application for reappointment.

The term is for three years expiring June 30, 2016.

Commissioner Pierce nominated Conrad Sloop for reappointment and the nomination passed unanimously.

ADDITION

At this point in the meeting, Attorney Neil Yarborough asked the Board to consider going into closed session for a discussion regarding attorney-client privileged communication. (Mr. Yarborough represents the County in the mediation process initiated by the Board of Education).

Commissioner Pierce moved that the Board enter closed session at 4:04 p.m. as requested. The motion was seconded by Commissioner Barber and passed unanimously.

The Board returned to Open Session at 4:34 p.m. No action was taken.

8. ADJOURNMENT

There being no further business to come before the Board, Commissioner Barber moved to adjourn at 4:34 pm. The motion was seconded by Commissioner Pierce and passed unanimously.

Respectfully Submitted,

Carolyn Barger, CMC, NCCCC
Clerk to the Board/
Assistant to the County Manager